

AMENDED IN SENATE MARCH 27, 2006

**SENATE BILL**

**No. 1627**

---

**Introduced by Senator Kehoe**

February 24, 2006

---

An act to amend Sections 65928 and 65950 of, and to add Sections 65850.6 and 65964 to, the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1627, as amended, Kehoe. Wireless telecommunication facilities.

The Planning and Zoning law authorizes the legislative body of any county or city to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, and open space.

This bill would require a city or county to administratively approve an application to collocate a wireless telecommunications facility, as defined, through the issuance of a building permit or similar nondiscretionary permit, as specified.

The Permit Streamlining Act requires a public agency that is the lead agency for a development project to approve or disapprove a development project within a specified number of days from the date of certification by the lead agency of an environmental impact report, if the report is prepared pursuant to specified provisions.

This bill would require a lead agency to approve or disapprove a development project that is a structure primarily designed to support a wireless telecommunications facility, within 90 days from the date of certification by the lead agency of the environmental impact report, if certain conditions are met.

The act defines the term “development project” to include projects involving the issuance of a permit for construction or reconstruction but not a permit to operate.

This bill would prohibit a city or county from taking certain actions as a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility, and would specify that a development project for a wireless telecommunications facility is not subject to a permit to operate.

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65850.6 is added to the Government  
2 Code, to read:  
3 65850.6. (a) A city or county shall administratively approve  
4 an application to collocate a wireless telecommunications facility  
5 through the issuance of a building permit or similar  
6 nondiscretionary permit. Review of the application shall be  
7 limited to the building official’s review of whether it meets all  
8 health and safety requirements of local, state, and federal law,  
9 ~~except with respect to the impact of radio frequency emissions.~~  
10 *law. With respect to the consideration of the environmental*  
11 *effects of radio frequency emissions, the city’s or the county’s*  
12 *review shall be limited to that authorized by Section 332(c)(7) of*  
13 *Title 47 of the United States Code.*  
14 (b) For purposes of this section, the following definitions  
15 apply:

1 (1) “Collocation” means the placement or installation of  
2 wireless facilities, including antennas, and related equipment, on  
3 existing structures such as towers, buildings, utility poles, and  
4 water tanks upon which wireless telecommunications facilities  
5 and equipment already exist.

6 (2) “Wireless telecommunications facility” means equipment  
7 and network components such as antennas, transmitters, base  
8 stations, and emergency power systems that are integral to  
9 providing wireless telecommunications services.

10 SEC. 2. Section 65928 of the Government Code is amended  
11 to read:

12 65928. “Development project” means any project undertaken  
13 for the purpose of development. “Development project” includes  
14 a project involving the issuance of a permit for construction or  
15 reconstruction but not a permit to operate. A development project  
16 for a wireless telecommunications facility, as defined in Section  
17 65850.6, shall not be subject to a permit to operate.  
18 “Development project” does not include any ministerial projects  
19 proposed to be carried out or approved by public agencies.

20 SEC. 3. Section 65950 of the Government Code is amended  
21 to read:

22 65950. (a) Any public agency that is the lead agency for a  
23 development project shall approve or disapprove the project  
24 within whichever of the following periods is applicable:

25 (1) One hundred eighty days from the date of certification by  
26 the lead agency of the environmental impact report, if an  
27 environmental impact report is prepared pursuant to Section  
28 21100 or 21151 of the Public Resources Code for the  
29 development project.

30 (2) Ninety days from the date of certification by the lead  
31 agency of the environmental impact report, if an environmental  
32 impact report is prepared pursuant to Section 21100 or 21151 of  
33 the Public Resources Code for the development project and all of  
34 the following conditions are met:

35 (A) The development project is affordable to very low or  
36 low-income households, as defined by Sections 50105 and  
37 50079.5 of the Health and Safety Code, respectively.

38 (B) Prior to the application being deemed complete for the  
39 development project pursuant to Article 3 (commencing with  
40 Section 65940), the lead agency received written notice from the

1 project applicant that an application has been made or will be  
2 made for an allocation or commitment of financing, tax credits,  
3 bond authority, or other financial assistance from a public agency  
4 or federal agency, and the notice specifies the financial assistance  
5 that has been applied for, or will be applied for, and the deadline  
6 for application for that assistance, the requirement that one of the  
7 approvals of the development project by the lead agency is a  
8 prerequisite to the application for or approval of the application  
9 for financial assistance, and that the financial assistance is  
10 necessary for the project to be affordable, as required pursuant to  
11 subparagraph (A).

12 (C) There is confirmation that the application has been made  
13 to the public agency or federal agency prior to certification of the  
14 environmental impact report.

15 (3) Ninety days from the date of certification by the lead  
16 agency of the environmental impact report, if an environmental  
17 impact report is prepared pursuant to Section 21100 or 21151 of  
18 the Public Resources Code for a development project that is a  
19 structure primarily designed to support a wireless  
20 telecommunications facility, as defined in Section 65850.6, and  
21 there is confirmation that the application has been made to the  
22 city or county prior to the certification of the environmental  
23 impact report.

24 (4) Sixty days from the date of adoption by the lead agency of  
25 the negative declaration, if a negative declaration is completed  
26 and adopted for the development project.

27 (5) Sixty days from the determination by the lead agency that  
28 the project is exempt from the California Environmental Quality  
29 Act (Division 13 (commencing with Section 21000) of the Public  
30 Resources Code), if the project is exempt from the California  
31 Environmental Quality Act.

32 (b) Nothing in this section precludes a project applicant and a  
33 public agency from mutually agreeing in writing to an extension  
34 of any time limit provided by this section pursuant to Section  
35 65957.

36 (c) For purposes of this section, “lead agency” and “negative  
37 declaration” shall have the same meaning as those terms are  
38 defined in Sections 21067 and 21064 of the Public Resources  
39 Code, respectively.

1 SEC. 4. Section 65964 is added to the Government Code, to  
2 read:

3 65964. As a condition of approval of an application for a  
4 permit for construction or reconstruction for a development  
5 project for a wireless telecommunications facility, as defined in  
6 Section 65850.6, a city or county shall not do any of the  
7 following:

8 (a) Require an escrow deposit or surety requirements for  
9 removal of a wireless telecommunications facility or any  
10 component thereof.

11 (b) Unreasonably limit the duration of any permit for a  
12 wireless telecommunications facility. Limits of less than 10 years  
13 are presumed to be unreasonable absent compelling land use or  
14 public safety reasons.

15 (c) Require that all wireless telecommunications facilities be  
16 limited to certain geographic areas or sites owned by particular  
17 parties within the jurisdiction of the city or county.

18 (d) Condition approval of a telecommunications facility on the  
19 agreement by the applicant to reserve space at, or on, the facility  
20 for the telecommunications needs of the city or county.

21 SEC. 5. If the Commission on State Mandates determines that  
22 this act contains costs mandated by the state, reimbursement to  
23 local agencies and school districts for those costs shall be made  
24 pursuant to Part 7 (commencing with Section 17500) of Division  
25 4 of Title 2 of the Government Code.